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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,118	12/21/2001	Robert Harvey Kane	US010688	3122
24737	7590	05/17/2005	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			CONSILVIO, MARK J	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 10/028,118	Applicant(s) KNE, ROBERT HARVEY	
	Examiner Mark Consilvio	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
 4a) Of the above claim(s) 5-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2 and 4 is/are objected to.
- 8) ☒ Claim(s) 5-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I, corresponding to the embodiment as shown in fig. 2;

Species II, corresponding to the embodiment as shown in fig. 4.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Eric Bram (Reg. No. 37,285) on 5/6/2005 a provisional election was made with traverse to prosecute the invention of Species I, claims 1-4. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5-13 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Response to Arguments

Applicant's arguments, see p. 5-10, filed 3/2/2005, with respect to the rejection(s) of claim(s) 1-4 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks (US Patent No. 2,887,566) in view of Nakano et al. (JP Publication No. 10208284) and in further view of Nakabayashi (US Patent Application No. 2002/0024734).

First, with respect to claim 1, Marks discloses a light polarizing device comprising: a thin film polarizing element (30) having an optically transparent substrate (28) (figs. 1 and 2), but Marks is silent to the further limitations of claim 1. Second, Nakano teaches that a thin film polarizer element (30) is susceptible to environmental conditions including fluctuations in temperature and humidity (fig. 2 and abstract). Further, Nakano teaches that it is therefore desirable to protect these polarizing films from the ambient environment by sealing them in a non-reactive atmosphere, but Nakano does not expressly disclose the further limitations of claim 1. Third, Nakabayashi discloses an optically transparent cover sheet (3) sealed to a substrate (7) and forming sealed enclosure surrounding optical element (5, 9) in an arrangement similar to the arrangement shown by Marks (figs. 1A and 1B). Also, Nakabayashi teaches the enclosure having a non-reactive atmosphere to protect the optical element from environmental conditions including fluctuations in temperature and humidity (p. 2, par. 24 and p. 5). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Marks, Nakano, and Nakabayashi to seal the polarizing element of Marks in the manner taught by Nakabayashi. One of ordinary skill in the art would have been motivated to do this by the teachings of Nakano to protect the sensitive polarizing element from environmental conditions including fluctuations in temperature and humidity.

With respect to claim 3, the combination of Marks, Nakano, and Nakabayashi discloses or suggests a light polarizing device comprising: an optically transparent substrate, an environmentally sensitive polarizing element on the substrate, an optically transparent cover sheet, sealant extending around the periphery of the device between the substrate and the cover sheet, and non-reactive atmosphere filling the interior space between the substrate and the cover

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sheet and protecting the environmentally sensitive polarizing element as stated supra. Also, Nakabayashi teaches that a plurality of spacers (10) distributed around the periphery of the device and supporting the cover sheet on the substrate above the element allow the assembly to be easily aligned (figs. 1B and 2A). Further, one of ordinary skill would have understood that the spacers on each side would also protect the assembly from damage and allow the sealant to evenly seal the assembly. Therefore, for these reasons, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Marks, Nakano, and Nakabayashi and to further provide such spacers to the combination stated supra.

Allowable Subject Matter

Claims 2 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

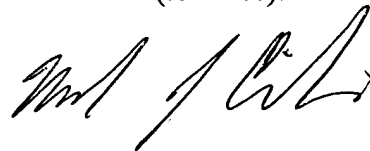
The following is a statement of reasons for the indication of allowable subject matter: Though the prior art discloses or suggests all the limitations of claims 1 and 3 as stated supra, the prior art of record fails to teach or suggest the aforementioned combination further comprising a wire-grid polarizing element. Further, the prior art does not suggest that the susceptibility of thin film polarizers to environmental conditions as disclosed by is a problem that translates to wire-grid polarizers.

Conclusion

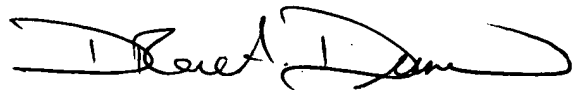
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Consilvio whose telephone number is (571) 272-2453. The examiner can normally be reached on Monday thru Friday, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Consilvio
USPTO Patent Examiner
Jefferson, 3C21 AU-2872
(571) 272-2453



DREW A. DUNN
SUPERVISORY PATENT EXAMINER